

BEFORE THE IDAHO BOARD OF TAX APPEALS

IN THE MATTER OF THE APPEAL OF MICHAEL) APPEAL NO. 07-A-2728
MCLAUGHLIN from the decision of the Board of) FINAL DECISION
Equalization of Valley County for tax year 2007.) AND ORDER

RESIDENTIAL PROPERTY APPEAL

THIS MATTER came on for hearing February 22, 2008, in Cascade before Hearing Officer Travis VanLith. Board Members Lyle R. Cobbs, David E. Kinghorn, and Linda S. Pike participated in this decision. Appellant Michael McLaughlin appeared. Assessor Karen Campbell, Chief Deputy Assessor Deedee Gossi, and Appraiser June Fulmer appeared for Respondent Valley County. This appeal is taken from a decision of the Valley County Board of Equalization denying the protest of the valuation for taxing purposes of property described as Parcel No. RPM00000099790A.

The issue on appeal is the market value of an improved residential property.

The decision of the Valley County Board of Equalization is reversed.

FINDINGS OF FACT

Subject's land value is \$146,630 and the improvements' valuation is \$570,380, totaling \$717,010. Appellant requests the land value remain unchanged and the improvements' value be reduced to \$467,000, for a total reduced value of \$613,630.

Subject is a 1.618 acre parcel located in McCall. Attached is a 2,886 square foot residence, construction of which, was completed in 2007.

Appellant first expressed confusion about receiving three (3) separate assessment notices concerning subject. The first notice indicated a total value of \$766,300 for subject. The second notice reduced subject's total assessment to \$621,950. The third placed a \$717,010 value on subject.

Appellant then noted the construction of subject's residence was not complete until mid to late 2007. An occupancy permit was approved in December 2006, however, construction was not complete until 2007. Appellant provided evidence indicating approximately 27% of subject's total construction cost was paid during 2007. The total cost of construction was \$467,568 or \$162.01 per square foot. Subject was assessed at \$197.64 per square foot.

Appellant offered two arguments to support subject's proposed value. First, the cost of subject's construction should be used as a basis for valuing subject. Appellant pointed out subject was assessed approximately 22% above the cost of construction.

Appellant also argued that because subject was not completed by January 1, 2007, comparing it to finished properties that sold during 2006 would be improper. In essence, Appellant advocated the market comparison approach should not be used in this case because it was impossible to compare subject to like properties that had recently sold, due to subject's unfinished status.

Respondent began by explaining the reason three (3) separate assessment notices were sent to Appellant. After the first notice was sent, Respondent discovered the land in subject's area was somewhat over-valued and improvements were under-valued. The second notice was sent to correct these errors. The third notice resulted from the State's examination of sales data in the area. It was determined residential improvements in the City of McCall were under assessed by an average of 20%. Accordingly, Respondent sent the third notice, reflecting a 20% increase for subject's improvements.

Respondent then mentioned an exterior inspection of subject was done in October 2006. At that time, Respondent noted subject was not complete, but estimated construction would be finished by the January 1, 2007 lien date.

Because it was believed subject would be complete by the lien date, Respondent used six (6) improved residential sales as a basis to value subject. The sales occurred during 2006 and involved properties similar in grade and condition to subject. The residences were between 1,929 and 2,988 square feet and sold between \$530,000 and \$635,000. Lot sizes were not disclosed at hearing.

CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to support a determination of fair market value. This Board, giving full opportunity for all arguments and having considered all testimony and documentary evidence submitted by the parties in support of their respective positions, hereby enters the following.

The Idaho Supreme Court has recognized three (3) approaches for determining market value.

[T]here are three primary methods of determining market value: the cost approach, in which the value as determined by new cost or market comparison is estimated and reduced by accrued depreciation; the income approach, applicable to "income producing property" in which a capitalization rate is determined from market conditions and applied to net income from the property to determine appraised value; and the market data (comparison method) approach, in which value of the assessed property is ascertained by looking to current open market sales of similar property. *Merris v. Ada County*, 100 Idaho 59, 63, 593 P.2d 394, 398 (1979).

In *Abbot v. State Tax Comm'n*, The Court further held;

In determining the value of property for taxation purposes the assessor may and should consider cost, location, actual cash sale value and all other factors, known or available to his knowledge, which affect the value of the property assessed, to the end that the property of each taxpayer will bear its just proportion of the burden of taxation. 398 P.2d 221, 225, 398 P.2d 221, 225 (1965).

Appellant argued the cost approach would be reasonable in this case because

construction of subject began in 2006 and was not finished until 2007. Appellant also noted subject's assessed value was approximately \$102,000 above total construction costs.

Respondent noted a letter was sent to Appellant in April 2007 asking for subject's construction costs. No response was received, so Respondent utilized the market data approach to support subject's value. Had construction costs been disclosed when requested, a stronger argument for use of the cost approach could have been made.

Although different types of property are by their nature more amenable to valuation by one method of appraisal than another the touchstone in the appraisal of property for *ad valorem* tax purposes is the fair market value of that property, and fair market value must result from application of the chosen appraisal method . . . Merris v. Ada County, 100 Idaho 59, 63, 593 P.2d 394, 398 (1979).

[T]he question is not what someone else, however eminent he may be in the field of appraisal work and knowledge of market values, may think is the proper method, but involves simply the determination as to whether the method used by the assessor was legitimate and fair, and was a reasonable method to use in arriving at the value of the property in question. Abbot v. State Tax Comm'n, 88 Idaho 200, 206, 398 P.2d 221, 224 (1965).

Respondent's use of the market data approach is not erroneous simply because the cost approach could have been used. As noted in the above Idaho Supreme Court opinions, the question is whether the approach utilized was done so correctly and fairly.

Respondent provided six (6) improved residential sales that occurred during 2006. The residences were between 1,929 and 2,988 square feet in size and sold between \$530,000 and \$635,000. Subject is 2,886 square feet and assessed at \$570,380.

On the surface, it appears subject was assessed in line with Respondent's sale properties. Further inspection reveals such is not the case. The sale prices reported by Respondent included both the residential improvements and the land upon which those structures were

situated. The prices are being used by Respondent to justify a \$570,380 value solely for subject's residential improvements. Subject's total assessed value is \$717,010, which is well above the highest sale reported by Respondent.

There are two apparent problems with Respondent's evidence and how it relates to subject's value. First, subject was assessed approximately \$82,000 above the highest sale reported by Respondent. Nothing was offered to explain why subject was valued so much higher than the sale properties. In other words, the sale prices do not appear to support Respondent's value position.

The second and more concerning issue to this Board is that subject's value was determined by comparing the property to fully-constructed residential properties. As noted above, subject's construction was completed in 2007; after the January 1 lien date. Such is evidenced by the fact that approximately 27% of subject's total construction cost was paid by Appellant in 2007; the last bill paid in October 2007. So while, there is nothing wrong with Respondent's use of the market data approach instead of the cost approach as advocated by Appellant, it is difficult for this Board to see that subject was compared to like properties.

Given the above, the Board is hesitant to adopt the value position of Respondent. Appellant has requested subject be assessed at \$467,000, which is nearly the total cost of construction. As approximately 27% of subject's construction was paid for and presumably occurred during 2007, Appellant's request seems reasonable and well-supported. As such, the Board will reduce the value of subject's improvements to \$467,000 and will leave the land value at \$146,630 as assessed, for a total reduced value of \$613,630. The decision of the Valley County Board of Equalization is reversed accordingly.

FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decision of the Valley County Board of Equalization concerning the subject parcel be, and the same hereby is, reversed, lowering subject's total assessed value to \$613,630.

IT IS FURTHER ORDERED that any taxes which have been paid in excess of those determined to have been due be refunded or applied against other *ad valorem* taxes due from Appellant.

MAILED April 3, 2008